

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**GEOTAG, INC.**

*Plaintiff,*

**v.**

**CIRCLE K STORE, INC., et al.**

*Defendants.*

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**C.A. NO. 2:11-cv-00405-MHS-CMC**

**JURY TRIAL DEMANDED**

**LVMH MOET HENNESSY LOUIS VUITTON INC.'S  
ANSWER AND DEFENSES IN RESPONSE TO  
PLAINTIFF GEOTAG, INC.'S FIRST AMENDED COMPLAINT**

Defendant LVMH Moet Hennessy Louis Vuitton Inc. ("LVMH") files this answer to Plaintiff Geotag, Inc.'s ("Geotag" or "Plaintiff") First Amended Complaint ("Amended Complaint"), and hereby states as follows:

**PARTIES**

1. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Amended Complaint and therefore denies those allegations.

2. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Amended Complaint and therefore denies those allegations.

3. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Amended Complaint and therefore denies those allegations.

4. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Amended Complaint and therefore denies those allegations.

5. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Amended Complaint and therefore denies those allegations.

6. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Amended Complaint and therefore denies those allegations.

7. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Amended Complaint and therefore denies those allegations.

8. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Amended Complaint and therefore denies those allegations.

9. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Amended Complaint and therefore denies those allegations.

10. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Amended Complaint and therefore denies those allegations.

11. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Amended Complaint and therefore denies those allegations.

12. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Amended Complaint and therefore denies those allegations.

13. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Amended Complaint and therefore denies those allegations..

14. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Amended Complaint and therefore denies those allegations.

15. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Amended Complaint and therefore denies those allegations.

16. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Amended Complaint and therefore denies those allegations.

17. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Amended Complaint and therefore denies those allegations.

18. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Amended Complaint and therefore denies those allegations.

19. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Amended Complaint and therefore denies those allegations

20. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Amended Complaint and therefore denies those allegations.

21. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Amended Complaint and therefore denies those allegations.

22. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Amended Complaint and therefore denies those allegations.

23. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Amended Complaint and therefore denies those allegations.

24. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Amended Complaint and therefore denies those allegations.

25. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of the Amended Complaint and therefore denies those allegations.

26. LVMH admits that it is a Delaware corporation with a principal place of business at 19 East 57th Street, New York, New York. LVMH denies the remaining allegations in Paragraph 26 of the Amended Complaint.

27. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Amended Complaint and therefore denies those allegations.

28. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 28 of the Amended Complaint and therefore denies those allegations.

29. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 29 of the Amended Complaint and therefore denies those allegations.

30. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Amended Complaint and therefore denies those allegations.

31. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 310 of the Amended Complaint and therefore denies those allegations..

32. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Amended Complaint and therefore denies those allegations.

33. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 33 of the Amended Complaint and therefore denies those allegations.

34. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Amended Complaint and therefore denies those allegations.

35. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Amended Complaint and therefore denies those allegations.

36. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Amended Complaint and therefore denies those allegations.

37. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Amended Complaint and therefore denies those allegations.

38. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Amended Complaint and therefore denies those allegations.

39. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Amended Complaint and therefore denies those allegations.

40. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Amended Complaint and therefore denies those allegations.

41. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Amended Complaint and therefore denies those allegations.

42. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of the Amended Complaint and therefore denies those allegations.

43. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Amended Complaint and therefore denies those allegations.

44. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Amended Complaint and therefore denies those allegations.

45. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Amended Complaint and therefore denies those allegations.

46. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Amended Complaint and therefore denies those allegations.

47. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Amended Complaint and therefore denies those allegations.

48. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 48 of the Amended Complaint and therefore denies those allegations.

49. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the Amended Complaint and therefore denies those allegations.

50. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 50 of the Amended Complaint and therefore denies those allegations.

51. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 51 of the Amended Complaint and therefore denies those allegations.



52. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 52 of the Amended Complaint and therefore denies those allegations.

53. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Amended Complaint and therefore denies those allegations.

54. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 54 of the Amended Complaint and therefore denies those allegations.

55. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 55 of the Amended Complaint and therefore denies those allegations.

56. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 56 of the Amended Complaint and therefore denies those allegations.

#### **JURISDICTION AND VENUE**

57. LVMH admits Paragraph 57 of the Jurisdiction and Venue section of the Amended Complaint alleges that this is an action arising under the patent laws of the United States, Title 35 of the United States Code, but denies the merits of such action. LVMH also admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). LVMH lacks knowledge and information sufficient to form a belief about the allegations related

to all of the Defendants other than LVMH, and therefore denies those allegations. LVMH denies the allegations contained in Paragraph 57 of the Jurisdiction and Venue section of the Amended Complaint insofar as they apply to LVMH.

58. LVMH denies the allegations contained in Paragraph 58 of the Jurisdiction and Venue section of the Amended Complaint insofar as they apply to LVMH.

### **ANSWER TO COUNT 1**

#### **ALLEGATION OF INFRINGEMENT OF U.S. PATENT NO. 5,930,474**

59. LVMH admits that United States Patent No. 5,930,474 (the “474 Patent”) is titled “Internet Organizer for Accessing Geographically and Topically Based Information,” and, that according to the face of the 474 Patent, was apparently issued by the United States Patent and Trademark Office on July 29, 1999. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 59 of Count I to the Amended Complaint, and therefore denies the same.

60. Paragraph 60 of Count I to the Amended Complaint states legal conclusions to which no response is required. To the extent that an answer is required, LVMH denies the allegations contained in Paragraph 60 to the Amended Complaint.

61. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 61 of Count I to the Amended Complaint and therefore denies those allegations.

62. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 62 of Count I to the Amended Complaint and therefore denies those allegations.

63. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 63 of Count I to the Amended Complaint and therefore denies those allegations.

64. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 64 of Count I to the Amended Complaint and therefore denies those allegations.

65. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 65 of Count I to the Amended Complaint and therefore denies those allegations.

66. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 66 of Count I to the Amended Complaint and therefore denies those allegations.

67. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 67 of Count I to the Amended Complaint and therefore denies those allegations.

68. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 68 of Count I to the Amended Complaint and therefore denies those allegations.

69. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 69 of Count I to the Amended Complaint and therefore denies those allegations.

70. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 70 of Count I to the Amended Complaint and therefore denies those allegations.

71. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 71 of Count I to the Amended Complaint and therefore denies those allegations.

72. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 72 of Count I to the Amended Complaint and therefore denies those allegations.

73. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 73 of Count I to the Amended Complaint and therefore denies those allegations.

74. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 74 of Count I to the Amended Complaint and therefore denies those allegations.

75. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 75 of Count I to the Amended Complaint and therefore denies those allegations.

76. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 76 of Count I to the Amended Complaint and therefore denies those allegations.

77. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 77 of Count I to the Amended Complaint and therefore denies those allegations.

78. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 78 of Count I to the Amended Complaint and therefore denies those allegations.

79. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 79 of Count I to the Amended Complaint and therefore denies those allegations.

80. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 80 of Count I to the Amended Complaint and therefore denies those allegations.

81. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 81 of Count I to the Amended Complaint and therefore denies those allegations.

82. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 82 of Count I to the Amended Complaint and therefore denies those allegations.

83. Denied.

84. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 84 of Count I to the Amended Complaint and therefore denies those allegations

85. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 85 of Count I to the Amended Complaint and therefore denies those allegations.

86. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 86 of Count I to the Amended Complaint and therefore denies those allegations.

87. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 87 of Count I to the Amended Complaint and therefore denies those allegations.

88. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 88 of Count I to the Amended Complaint and therefore denies those allegations.

89. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 89 of Count I to the Amended Complaint and therefore denies those allegations.

90. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 90 of Count I to the Amended Complaint and therefore denies those allegations.

91. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 91 of Count I to the Amended Complaint and therefore denies those allegations

92. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 92 of Count I to the Amended Complaint and therefore denies those allegations.

93. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 93 of Count I to the Amended Complaint and therefore denies those allegations.

94. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 94 of Count I to the Amended Complaint and therefore denies those allegations.

95. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 95 of Count I to the Amended Complaint and therefore denies those allegations.

96. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 96 of Count I to the Amended Complaint and therefore denies those allegations.

97. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 97 of Count I to the Amended Complaint and therefore denies those allegations.

98. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 98 of Count I to the Amended Complaint and therefore denies those allegations.

99. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 99 of Count I to the Amended Complaint and therefore denies those allegations.

100. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 100 of Count I to the Amended Complaint and therefore denies those allegations.

101. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 101 of Count I to the Amended Complaint and therefore denies those allegations.

102. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 102 of Count I to the Amended Complaint and therefore denies those allegations.

103. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 103 of Count I to the Amended Complaint and therefore denies those allegations.



104. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 104 of Count I to the Amended Complaint and therefore denies those allegations.

105. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 105 of Count I to the Amended Complaint and therefore denies those allegations.

106. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 106 of Count I to the Amended Complaint and therefore denies those allegations.

107. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 107 of Count I to the Amended Complaint and therefore denies those allegations.

108. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 108 of Count I to the Amended Complaint and therefore denies those allegations.

109. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 109 of Count I to the Amended Complaint and therefore denies those allegations.

110. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 110 of Count I to the Amended Complaint and therefore denies those allegations.

111. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 111 of Count I to the Amended Complaint and therefore denies those allegations.

112. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 112 of Count I to the Amended Complaint and therefore denies those allegations.

113. LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations Paragraph 113 of Count I to the Amended Complaint and therefore denies those allegations.

114. Paragraph 114 of Count I to the Amended Complaint does not require a response by LVMH. To the extent any response is necessary, LVMH denies it has committed any act of infringement, willful or otherwise.

115. To the extent directed toward LVMH, LVMH denies the allegations of Paragraph 115 of Count I of the Amended Complaint. With respect to the other Defendants, LVMH lacks knowledge and information sufficient to form a belief as to the truth of the allegations in Paragraph 115 of Count I to the Amended Complaint and therefore denies those allegations.

**ANSWER TO PRAYER FOR RELIEF**

1. LVMH denies that Plaintiff is entitled to any of the relief requested in Paragraphs 1 through 6 of its Prayer for Relief.

## **AFFIRMATIVE DEFENSES**

1. Without conceding that any of the following necessarily must be pled as an affirmative defense, or that any of the following is not already at issue by virtue of the foregoing denials, and without prejudice to LVMH's right to plead additional defenses as discovery into the facts of the matter warrant, LVMH hereby asserts the following defenses. LVMH specifically reserves the right to amend its defenses further as additional information is developed through discovery or otherwise.

### **FIRST AFFIRMATIVE DEFENSE**

#### **Noninfringement**

2. LVMH has not infringed any valid claim of the '474 Patent either literally or under the doctrine of equivalents.

### **SECOND AFFIRMATIVE DEFENSE**

#### **Patent Invalidity**

3. Each and every claim of the '474 Patent is invalid for failure to comply with the patent laws, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112, and 113.

### **THIRD AFFIRMATIVE DEFENSE**

#### **Prosecution History Estoppel/Prosecution Disclaimer**

4. Prosecution history estoppel and/or prosecution disclaimer preclude any finding of infringement.

### **FOURTH AFFIRMATIVE DEFENSE**

#### **Limitation on Damages**

5. The Plaintiff's claim for relief and damages are limited by 35 U.S.C. §§ 286, 287, and/or 288.

**FIFTH AFFIRMATIVE DEFENSE**

**Laches/Equitable Estoppel**

6. Plaintiff's claims against LVMH are barred in whole or in part by one or more of the equitable doctrines of laches and/or equitable estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

**Failure to State a Claim**

7. Plaintiff has failed to state a claim upon which relief can be granted.

8. LVMH reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses at law or in equity, that may now or in the future be available based on discovery or any other factual investigation concerning this case, including without limitation any applicable defenses asserted by any other defendant in this action.

**PRAYER FOR RELIEF**

WHEREFORE, LVMH prays for the following relief:

- A. That Geotag's claims against LVMH be dismissed with prejudice and that Geotag take nothing by way of its Complaint;
- B. That judgment be rendered in favor of LVMH;
- C. For a declaration that LVMH has not infringed any claim of the '474 Patent;
- D. For a declaration that each and every claim of the '474 Patent is invalid;

- E. For an order finding this case exceptional pursuant to 35 U.S.C. § 285 and awarding LVMH its reasonable attorneys' fees;
- F. That LVMH be awarded its costs of suit incurred in this action; and
- G. For such other and further relief as the Court deems just and proper.

Dated: March 21, 2012

Respectfully submitted,

/s/ Avelyn M. Ross

Willem G. Schuurman (TX Bar No. 17855200)

Avelyn M. Ross (TX Bar No. 24027871)

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*Attorneys for LVMH Moet Hennessy Louis  
Vuitton, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 21, 2012. Any other counsel of record will be served by first class mail on this same date.

/s/ Avelyn M. Ross